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DECISION OF THE COMPTROLLER GENERAL OF THE UNITED STATES

B-90432

(UNPUBLISHED)

November 15, 1949

The Agency may establish positions with salaries and responsibilities comparable to those of General Schedule Grades 16, 17, and 18 without regard to the limitations of the Classification Act of 1949.

COMPTROLLER GENERAL WARREN TO THE DIRECTOR OF CENTRAL INTELLIGENCE

Reference is made to your letter of November 2, 1949, requesting decision whether your Agency may establish certain positions in grades and with salaries equivalent to those in General Schedule Grades 16, 17, and 18 as provided in the Classification Act of 1949, Public Law 429, approved October 28, 1949.

Section 202 of the said Classification Act of 1949 specifically excepts from its provisions (except Title XII) the Central Intelligence Agency. Accordingly, the provisions in that act relative to the placement of employees in grades 16, 17, and 18 and the limitation upon the number of such employees have no application to the Central Intelligence Agency.

However, in answering your question there also are for consideration the provisions of sections 9 and 10 (a)(1) of the Central Intelligence Agency Act of 1949, Public Law 110, approved June 20, 1949, which read as follows:

"Sec. 9. The Director is authorized to establish and fix the compensation for not more than three positions in the professional and scientific field, within the Agency, each such position being established to effectuate those scientific intelligence functions relating to national security, which require the services of specially qualified scientific or professional personnel: Provided, That the rates of compensation for positions established pursuant to the provisions of this section shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission.

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"Sec. 10. (a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including--

"(1) personal services, including personal services without regard to limitations on types of persons to be employed ***."

Except for the limitations contained in section 9, supra, the provisions of section 10 (a)(1) authorize the expenditure of funds for personal services without regard to statutory provisions pertaining to the salaries to be paid therefor. However, section 9 specifically limits the authority of the Director to establish and fix the compensation of not more than three positions in the professional and scientific field at salaries ranging from \$10,000 to \$15,000 per annum. Consequently, if the positions desired to be established by you at salary rates comparable to those provided for General Schedule Grades 16, 17, and 18 involve professional or scientific duties, they would be subject to the limitations upon the number and salaries as prescribed by section 9 of the said Central Intelligence Agency Act of 1949. On the other hand, if such positions do not involve professional or scientific duties, there does not appear to be any restriction, in the Central Intelligence Agency Act or otherwise, upon the number of positions or the compensation to be paid to such officers or employees occupying the positions. Accordingly, there would appear to be no legal objection to the establishment of positions in your Agency, for other than professional and scientific duties, with salaries and responsibilities comparable with those provided in General Schedule Grades 16, 17, and 18 without regard to the limitations contained in section 505 of the Classification Act of 1949.

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